

The Fundamental Rights and Obligations of the Faithful

The newest and certainly not the least significant innovation in the 1983 Code of Canon Law is the inclusion of the fundamental rights and obligations of the faithful in the totality of Book II dedicated to the People of God. The Second Vatican Council's teaching concerning the dignity of the pilgrim members of God's People necessarily had to be proclaimed and protected within the ecclesial community in terms of canonical norms with due constitutional force. The long awaited and desired inclusion of this topic, therefore, closed once and for all the almost endless debates and discussions that centered on this crucial issue concerning the Church and which had polarized to some extent the whole Christian world.

The term faithful, whose rights and obligations the Church wants to delineate is basic and its correct understanding in both its theological and constitutional, as well as the juridical aspects is paramount in any indepth discussion of the People of God.

The Faithful — Their Constitutional Condition

The primordial fact by means of which the People of God is formed is the convocation and consequent congregation of all men who accept the salvific message of Christ and constitute themselves as His disciples. These men are the Christian faithful

encompassing all persons pertaining to the Church through baptism whatever their function or their state is in the same Church.¹

This notion expresses what is common to all members of God's People anterior to whatever distinction which may accrue posteriorly; and consequently, is applicable to each and everyone who pertains to the Church from the Pope to the last baptized person.²

In this connection, it is important not to confuse the term *faithful* with the term *laity*. These two are not synonymous terms since one is generic — faithful, and the other is specific — laity; not to mention the fact that the term laity is a result of functional juridical considerations. The faithful are all those who pertain to the Church based on the principle of equality; while the laity is a type of faithful or are those members of God's People whose characteristic note is secularity. They are faithful determined through the variety of functions in the Church distinct from the religious and the clerics.³

The common aspect therefore, that makes the faithful what he is, is the affirmative answer to the divine call directed by the Church to all men without exception and the acceptance of this summon to be children of God through baptism. This condition logically precedes all forms of distinction since it refers to a radical fact — that of being a Christian to which is posteriorly added functions, the principle of differentiation. From this, it is easy to conclude that the main characteristics which make up the concept of the faithful are: 1) baptism; 2) pertinence to the people of God; 3) possession of the condition common to all God's People.

To be a faithful, hence, or to be a member of the People of God is a constitutional position based on ontologico — sacramental roots. Expressed more scientifically, the being of a Christian (to be faithful) presupposes a primordial ontological dimension,

¹ *Lumen Gentium*, Cpt. II, n. 32; *Codex Juris Canonici*, (Typis Polyglottis Vaticana, 1983), Can. 204.

² *LG*, 31.

³ J. Hervada, "La Constitución de la Iglesia", *Derecho Canónico*, I, (Eusa, Pamplona, 1974), p. 222; J. Hervada — P. Lombardia, *El Derecho del Pueblo de Dios*, (Ediciones Universidad de Navarra, S.A., Pamplona, 1970), p. 268; cf. also A. del Portillo, *Fieles y laicos en la Iglesia. Bases de sus respectivos estatutos jurídicos*, (Pamplona, 1969).

not only a juridical one. This is because the condition of the baptized is primarily ontological — a person raised to be a child of God or in possession of the baptismal character, but, which condition is expressed and manifested through a juridical dimension.

In other words, the baptized, by virtue of his elevation to the supernatural order acquires the unique condition of “the dignity and freedom of the sons of God”⁴ — a note proper of the People of God, of men regenerated in Christ the Lord. Juridically, the condition of dignity and freedom demand that they be expressed externally in the sphere of self-determination and responsibility; in short, through fundamental rights and duties.

The faithful, by the mere fact of being such, is encountered in a position or fundamental juridical condition in the People of God which forms an integral part of his constitutional right. This fundamental juridical condition of the faithful is primary and basic within and in conformity positively with the divine fundamental will of Christ. It is for this reason that other possible juridical situations within the totality of canonical ordination which has the faithful as direct subjects are to be considered only as concretizations, derivations and determinations of this fundamental or constitutional juridical condition.

The constitutional or fundamental condition of the faithful, by its nature immutable, is made explicit in various concrete rights and duties in conformity with both constitutional and historical factors since its faithful concretization require that it be in accordance with a deeper study and understanding of the fundamental will of Christ (*momentum constitutivum*) as well as in conformity with concrete historical situation (*momentum historicum*). The essential constitutive moment of this constitutive condition — its nucleus is the essential bond of union which the faithful has with the Church; his dignity, liberty and responsibility as his basic condition. Its historical factors are the determinant concretization and immediate evolutive explicate expression of the said essential nucleus always in conformity with the progress and development of the pilgrim, the growing and per-

⁴ LG, 9.

petually renewing Church or People of God.⁵ These factors — since they form part of the Constitutional Law of the Church are inseparable although logically distinguishable.

Fundamental Rights of the Faithful

The notion of fundamental rights, we have seen, presupposes an equalitarian vision of those who belong to the Church — viewed in connection with the radical equality derived from the constitutional condition of the faithful conceived anteriorly to any form of inequality based on the principle of the variety of functions.

The fundamental rights emanates from the constitution of the Church based on principles of Divine Law and are themselves juridico-positive concretizations and expressions of the immediate recognition of the ontologico-sacramental reality of the faithful. Said in another way, the fundamental rights belong to all members of the faithful, simply by virtue of their being such, by reason of their statues within the Church — i.e., by reason of their dignity and liberty as sons of God.⁶

Viewed in its intimate essence, Hervada describes fundamental rights as the expressions or the reflections of the fundamental will of Christ made subjective in the faithful as an exigency of their ontologico-sacramental conditions as baptized.⁷ Authors are wont however, to distinguish this notion which they consider as common usage in fundamental theory from that utilized in Constitutional Law. In this latter, fundamental rights are those rights of the faithful which immediately and directly emanate from the constitution of the church, in so far as they are positive rights. This is the reason why those effective social and juridical positions of liberty resulting from the constitutional structure of the faithful or those spheres of autonomy whose exercise and defense are confided to free responsibility and attributed by Constitutional Law to the faithful, are likewise, considered fundamental rights.⁸

⁵ LG, 4 & 8.

⁶ P. Lombardia, "The Fundamental Rights of the Faithful", *The Future of Canon Law*, ed. N. Edelby, T. Jimenez - Urresti, P. Huizing, (Paulist Press, N.Y., 1969), p. 82.

⁷ J. Hervada, *op. cit.*, p. 224.

⁸ Cf. Viladrich, *Teoría de los derechos fundamentales del fiel. Presupuestos críticos*, (Pamplona, 1969).

The fundamental rights of the faithful is the recognition of the exigencies of the being proper of a Christian; and following the celebrated view of St. Thomas Aquinas in this regard, they are, to be considered as explicit expressions of divine law obtained in the manner of conclusions and gifted with a basic degree of *exigibilitas* through the proper law of Christ.⁹

*Characteristics of the Fundamental
Rights of the Faithful*

It is a basic principle that all juridical situations possess a sense by means of which one can understand its nature, delineate the limit of its extension and understand its finality. Since the basis of the fundamental rights is the dimension of justice inherent on the condition of the members of God's People as faithful — it is safe to assume from this fact the characteristics and notes of the fundamental rights.

Modern jurists¹⁰ are in full agreement that fundamental rights are not spheres of individualistic action in the sense that they are to be considered as a sort of isolated defense mechanism against the Christian community at large or spheres of non-solidarity with the same. Hervada claims that on the contrary, they are juridical reflexions of the liberating sense of redemption which generates in the faithful the participation in the dignity and liberty of the Christian and afford other spheres of personal responsibility. In addition, they are manifestations of the condition of the baptized as active members of the Christian community as well as guarantees and concrete expressions both of the action of the Holy Spirit in so far as they touch directly on the faithful's response to this action.¹¹

From these insights, one can easily glean that the intrinsic extension and the limit of the exercise of the fundamental rights of the faithful exist and are expressed in the measure that they are manifestations of the responsibility of the faithful, of their active participation in the mission of the Church and of the com-

⁹ S. T., I-II, q. 98, a. 3.

¹⁰ cf. ex. gr., A. Prieto, "Los derechos subjetivos públicos en la Iglesia", *Iglesia y Derecho* (Salamanca, 1965), pp. 325 ss; A. del Fortillo, *op. cit.*

¹¹ J. Hervada, *op. cit.*, pp. 224 ss.

munitarian and unifying sense of God's People — all designed and within the fundamental will of Christ.

Together with these intrinsic limitations are extrinsic ones composed of the rights of the other members of the Church or other faithful, the function proper of the hierarchy and the common good itself of the church.

*Notes, Titulars, Acquisition, Loss and
Suspension of the Fundamental Rights*

The fundamental rights of the faithful have four significant notes. They are first of all *universal*, proper of all the faithful since they are based and reside on the ontologico-sacramental condition of the faithful. They are *perpetual*, lost only in death; hence, they persist as long as the condition of the baptized exists which is perpetual. They cannot be renounced or be given up voluntarily. This is due to the fact that being exigencies of the ontologico-sacramental condition of the faithful and expressions of Christ's fundamental will, they are not within the power of the faithful to surrender but are to be extended or exercised on the contrary, towards all.

A logical consequence of this enumeration is the conclusion that the titulars of the fundamental rights of the faithful are each and all of the faithful themselves whatever their condition is or functions are in the body of Christ's Church. It means that they are *common* to all the faithful and are anterior to all other rights that could accrue to them posteriorly by reason of social condition or state such as to be, ex. gr., a cleric, a religious or a lay person, or through ministerial function as with the other rights that flow from ecclesiastical office, incardination or from the various forms of the ministry.

The fundamental rights are therefore, also rights *erga omnes*. Hence, all the faithful are obliged to respect them. This is the reason why in this sense, the fundamental rights give origin to a general obligation of respect whose subject is the entire People of God itself. This general obligation of respect comprehends a multilateral obligation of the faithful to the titulars of these fundamental rights, as well as to the hierarchy, and an institutional

obligation of the whole People of God, which includes not only respect but also, and most important of all, the fulfillment of these same rights.

The fundamental rights are acquired as we have indicated, through baptism by means of which a person is made subject of the rights and duties of a Christian.¹²

Although the fundamental rights of the faithful cannot be lost radically, their use, however, can be suspended when its efficacy or exercise is paralyzed.

Loss or extinction of a juridical situation-fundamental rights in our discussion, would mean the radical disappearance of the same which is tantamount to its destruction. In this sense, fundamental rights, as earlier affirmed, cannot be destroyed or lost except in death since they are always present in the conditions of the baptized.

On the contrary, suspension which is the paralyzation of its efficiency or its exercise is brought about by a circumstance or extrinsic factor which impedes its expression. Several distinct causes can lead to the suspension of the exercise of the fundamental rights: the commission of certain delicts which can be the abuse of the fundamental rights themselves or very graphically, those delicts which imply rupture within the ecclesial communion such as heresy, apostasy and schism; those which lead only to non-delictual rupture of ecclesial communion like the situation of the separated brethren; or other exceptional situations which make imperative the suspension of some of the fundamental rights.

Normally, suspension does not totally involve all the fundamental rights but only some of them; nevertheless, in certain exceptionally grave cases a condition could exist wherein all the rights are practically suspended.

*Requisites and Presuppositions for
the Exercise of the Fundamental Rights*

We have seen from the preceding discussions that the exercise of the fundamental rights are not absolute nor arbitrary. Their just and right use, hence, should logically be regulated by

¹² CIC, Can. 204, § 1.

a series of presuppositions and requisites. Presuppositions are those conditions which must be present in the faithful in order to exercise the said right: like for example, the state of grace in order to avail of the right to receive some of the sacraments, or the needed information and required competence in order to use the liberty to form an opinion.¹³

Requisites are those qualities or inherent conditions needed to exercise the fundamental rights lawfully. Thus, for example, one should possess truth and prudence in order to be able legitimately to use the right of free opinion, together of course, with the necessary reverence to the hierarchy.¹⁴

Since these requisites and presuppositions flow from the very nature itself of the subject matter which these same rights are concerned with, or from the possible consequences of the use of these rights, as well as from the determination or particular concretization of the same by law, it corresponds to ecclesiastical authority to regulate all inter-subjective relations which can originate from these rights.

Although each and every fundamental right possesses presuppositions and requisites proper of its own, it is not impossible to enumerate some which are common to all of them. Among the general presuppositions, authors commonly mention the ff: a) the capacity to act (use of reason); b) the bond of ecclesiastical communion; and, c) absence of censures which could cause the suppression of the fundamental rights.

In its turn, common requisites for the exercise of the fundamental rights are: a) freedom, or absence of force or coercion, b) communitarian or social responsibility, c) reasonableness (*rationabilitas*) or the exercise of the mentioned right in accordance with divine law and right reason; and, d) their use in conformity with the laws of the Church which regulate them.

The Cataloguing of the Fundamental Rights in the New Code of Canon Law

Before the promulgation of the 1983 Code of Canon Law the enumeration of the fundamental rights of the faithful was not

¹³ LG, 37.

¹⁴ LG, 37, CIC, can. 212, § 3.

exhaustive since authors, although properly guided by the various texts of Vatican II documents especially chapters 2 and 4 of *Lumen Gentium* relied solely on each other and always appended their treatises with the apology that their discussion was not based on the actual enumeration of these same rights but were given only as examples in a tentative outline.¹⁵

At present, this situation does not exist anymore and an official enumeration of the fundamental rights of the faithful is provided for officially from canons 209 to 222 of the New Code. Cataloguing them, however, is another point and authors in this regard show divergent views. We shall illustrate two authors whose works, I believe, is worthy of consideration not only for their logical value but also for their doctrinal analysis.

J. Hervada and P. Lombardia¹⁶, enumerating the various fundamental rights classify them according to a scientific systematization based on the fact that since these rights emanate from the constitutional condition of the faithful, they are nothing but the series of concretizations, derivations or determinations of the fundamental or the constitutional condition of the faithful.

According to them four aspects or elements can be considered as integrating factors of the constitutional condition of the faithful, namely: a) *Conditio communis* or the relation of solidarity and communion of the People of God with respect to faith and the various means for sanctification; b) *Conditio libertatis* or that sphere of autonomy the faithful possesses to pursue his proper end with full and personal responsibility; c) *Conditio subjectionis* or that condition of being bound to the order of the People of God established by Christ and to the legitimate Pastors. This results from the institutional and hierarchical characters of the People of God; d) *Conditio activa* or the particular condition of members of the People of God called to participate actively in His life and actions, i.e., to the mission of the Church.

Accordingly, Hervada and Lombardia distribute the various rights following their classification, as follows: A. *Juridical Situations derived from "Conditio Communis"*: 1) Juridical situa-

¹⁵ cf. P. Lombardia, *op. cit.*, pp. 85-86; J. Hervada, *op. cit.*, pp. 225-226.

¹⁶ cf. *op. cit.*, pp. 249-311.

tions with respect to the Word of God, 2) Juridical situations in the order of the Sacraments: a) Eucharist, b) Penance, c) Confirmation and Unction of the Sick; 3) Right to participate in liturgical actions; 4) Other juridical rights: B. *Juridical Situations contained in "Conditio Libertatis"*: 1) Right to personal apostolate, 2) Right to one's proper spirituality, 3) Right to association, 4) Right to elect one's personal condition in life, 5) Liberty on temporal matters, 6) Other juridical situations; C. *Juridical Situations derived from "Conditio Activa"*: 1) Right to one's proper opinion, 2) Right to information, 3) Right to investigation and teaching, 4) Right and duty to help in the necessities of the Church; D. *Juridical Situations which arise from "Conditio Subjectionis"*: 1) Dependence with respect to the institutional structure founded by Christ, 2) Binding state to the hierarchy, 3) Right to petitions, 4) Right to the proper and adequate development of hierarchical activities, 5) Faculty to intervene in the political sphere of the Church.

James H. Provost, writing after the promulgation of the new Code catalogues the various rights of the laity in a different way.¹⁷

Enumerating sixteen rights which he concedes are at least listed in the New Code as common to all the faithful, he starts by declaring as the first and primordial right the fact that "whatever their sources, these are all Church rights".¹⁸

Under "*Rights of All the faithful*", he mentions, 1) right to petition; 2) right to public opinion; 3) right to form associations; 4) right to assembly; 5) and right to apostolic work. Included under "*Sacramental Life*", he mentions: 1) right to receive from the spiritual goods of the Church, especially the proclamation of the Word and the sacraments; 2) right to worship under one's own rite; 3) and right to a personal way of spirituality or spiritual life. A third heading, Provost considers is "*Education*" under which he includes: 1) the right to learn about the gospel; 2) the right to be educated in truths, traditions, customs and meaning of their faith. Lastly, he recognizes fundamental rights which he groups under the heading "*Human*

¹⁷ James H. Provost, "Rights for Christians in the Revised Code", *The Catholic World*, Vol. 226, (May/June, 1983), pp. 110-112.

¹⁸ *op. cit.*, p. 112.

Rights", as ff.: 1) right to a good name; 2) right to choose freely one's state of life; 3) freedom from whimsical punishment; 4) right to vindicate one's right in the Church; 5) right to defend one's right if they are violated; and 6) the right to due process of law if one is hauled into Church court.

With proper modifications and adjustments the cataloguing advanced by Hervada and Lombardia affords a clearer and more systematic picture of the whole listing of the rights of the faithful. For our purpose, however, we shall indicate the list of the fundamental rights and obligations as they are enumerated in the new Code.

A. *Fundamental Rights*

1. Right to work for spreading the divine plan of salvation to all people of every time and place.¹⁹

This fundamental right which is a duty at the same time form the framework and basis for all the rest since it is from it that the Christian obtains his mission to sanctify the whole world and bring to it the message of salvation. *Lumen Gentium* teaches that the goal of God's People is the Kingdom of God begun by God Himself on earth, and which is to be extended further until it is brought to perfection at the right time.

The faithful, therefore, since they have become disciples of Christ through membership in the Church in baptism are entrusted with the task to spread the Church and her mission to all regions of the earth and into the history of mankind so that the People of God while remaining one and unique will be spread throughout the world and exist in all ages.²⁰

2. Liberty to reveal their needs and desires to the Pastors of the Church, especially on spiritual matters.²¹

According to the new Code, the faithful have the right to reveal to Church authorities their needs, especially spiritual ones. This however, does not exclude other needs about which the Church

¹⁹ "Omnes christifideles officium habeant et jus adlaborandi ut divinum salutis nuntium ad universos homines omnium temporum ac totius orbis magis magisque perveniat." (Can. 211).

²⁰ *LG*, cpt. 2.

²¹ "Christifidelibus integrum est, ut necessitates suas, praesertim spirituales, suaeque optata Ecclesiae Pastoribus patefaciant." (Can. 212, § 2.).

should be concerned. Thus, in addition to asking for guidance, spiritual support and solace, Christians could petition, according to J.H. Provost, for material aid through the works of mercy and charity which the Church sponsors.²²

In this connection, *Christus Dominus* exhorts bishops to exercise their office as a father and pastor who stands in the midst of his people as one who serves. He is, hence, enjoined to know his sheep, to be a true father duly acquainted with the needs of his flock in the social circumstances in which they live.²³ All of these manifestations are in direct anticipation of the faithful's right to send their needs to their pastor.

Priests in turn, are enjoined to acknowledge and promote the dignity of the people entrusted to his care by listening to them willingly, considering their wishes in a fraternal spirit... and to reconcile their differences in mentality, etc.²⁴ All of these, in order to achieve unity in God's People and assure its salvation and sanctification.

3. Right to express their opinion on things which concern the good of the Church.²⁵

In this particular denomination, taken from *Lumen Gentium*, 37, two juridical situations which are connected with each other can be discerned namely: the liberty to form one's opinion in those matters already authentically defined by the Church's teaching office, and the right to freely manifest this same opinion.²⁶

The said manifestation could be made either orally or through pertinent writings which *Gaudium et Spes* expresses as the right of freely manifesting one's proper opinion through the liberty of words and the use of various means of social communication.²⁷

²² *Op. cit.*, p. 110.

²³ *ICD*, n. 16.

²⁴ *PO*, n. 9.

²⁵ "Pro scientia, competentia et praestantia, quibus pollent ipsis jus est, immo et aliquando officium, ut sententiam suam de his quae ad bonum Ecclesiae pertinent sacris Pastoribus manifestent eamque, salva fidei morumque integritate et reverentia erga Pastores, attentisque communi utilitate et peronarum dignitate, ceteris christifidelibus notam faciant." (Can. 212, § 3).

²⁶ *GS*, 62.

²⁷ *GS*, 62.

Furthermore, *Lumen Gentium*, opines that sometimes there exists the duty to manifest this same opinion.²⁸

This right presently recognized by the Code follows the lead of the II Vatican Council expressed in the dogmatic constitution *Lumen Gentium*, n. 37 with special reference to those dedicated to the study of the sacred sciences as mentioned in the constitution *Gaudium et Spes*, n. 62.

From the juridical standpoint, the exercise of the liberty to form one's opinion demands certain presuppositions: the necessary information which the new Code refers to as "*scientia, competentia et praestantia*." Furthermore, the proper use of this right is conditioned by the three requisites of truth, prudence and reverence towards the hierarchy.²⁹

The factor which limits the exercise of this right is the scandal which could result from the manifestation of an opinion on the rest of the faithful.

4. Right to receive from the sacred Pastors assistance from the spiritual goods of the Church, especially the Word of God and the sacraments.³⁰

This right is expressed in n. 37 of the constitution *Lumen Gentium*. And although, authors usually treat of this theme more as an obligation of the hierarchy by virtue of its mission *ad omnes gentes*, it is likewise true that to listen to the proclamation of the Word and to participate in the fruits of the sacraments is a characteristic very proper of a disciple of Christ. The preaching of the Gospel is directed to achieve faith and personal salvation which are free acts and very personal aims directly connected with the personal dimension of the faithful. The equilibrium resulting from the principle of personal liberty and the personal and communitarian relation of the faithful with respect to the gospel message give rise to a complex juridical situation which results in this obligation.

²⁸ *LG*, 32.

²⁹ *LG*, 37.

³⁰ "*Ius est*, Christifidelibus ut ex spiritualibus Ecclesiae bonis, praesertim ex verbo Dei et sacramentis, adjumenta a sacris pastoribus accipiant" (Can. 213).

The juridical situation or relation of the faithful with respect to the sacraments, however, is not the same for all of them and even though authors frequently speak of a right to the sacraments, their sole purpose is to generalize in order to avoid repetitions and circumlocutions. In this connection, therefore, we shall prescind from the three sacraments of matrimony, holy orders and baptism since with regards to the first two, the rights connected with them are not distinct from the respective rights to form a family and to assume the condition of a cleric which does not pertain to the *conditio communis* but to the *conditio libertatis*. The right to receive baptism, for its part, is obviously not a fundamental right of the faithful.

Since the Eucharist is the mystical bond which completes and perfects the union and unity of the People of God, it is obvious that all the faithful should have the fundamental right to participate in it. And since it is within the condition of the faithful to realize and signify his union with the People of God and communicate the mystery of the Pasche, there exists, furthermore, a generic duty in relation to the Eucharist.³¹

Similar to the Eucharist, the faithful possesses both a fundamental and generic right with regard to the sacrament of Penance. The condition of the "esse" of a faithful implies the necessity to live in conformity with the doctrine of Christ since baptism confers an ontological condition of conformity with Him, this exigency being proper of a Christian. When a Christian does not conform himself to this situation, he harms one of the most basic dimensions of his being a Christian to uphold the sanctity and unity of the Church which is among its most essential characteristics.

The condition of being a faithful demands that a person lives as a genuine disciple of Christ; and christian solidarity and corresponsibility require that a faithful live in sanctity. In this sense, the faithful have a generic right to receive the sacrament of penance, if necessary.

Through penance, a Christian found in this particular situation of rupture with the Church is reconciled with her besides

³¹ J. Hervada & P. Lombardia, *op. cit.*, p. 295.

obtaining divine pardon for his offense. Hence, apart from the pardon for his offense against the Church, he obtains full re-integration to ecclesial communion.³²

To speak therefore, of a right to receive the sacrament of penance means that the faithful possesses the full and strict right to unite himself with the Church since that is the will of God, besides the fact that as a member of the Church through baptism, he has to maintain the same. For this reason, once he repents, he has the right to reincorporate himself fully to ecclesial communion.

Concerning the sacrament of confirmation and unction of the sick, there is no question that the faithful has the right to receive them.

5. Right to worship God according to the prescriptions of one's own rite; and the right to one's spirituality.³³

The constitution *Sacrasanctum Concilium*, n. 14 declares that the faithful have the right to participate in the liturgical life of liturgical actions. The Code of 1983 further adds that they have the Church. This implies that in addition to the sacraments, they have in addition, the right to participate in non-sacramental in addition the right to follow a proper form of spiritual life in conformity with the doctrine of the Church; and of their own proper rite according to approved liturgical books.

The right to one's own spirituality involves two aspects: first is the liberty to answer the divine call to his personal salvation and sanctification free from all possible harmful and disordered interventions from the rest of the members of the Christian community; and second is the fact that since one of the basic characteristic of the People of God is variety, it is an obvious consequence that sanctity can be attained in various ways.³⁴ This means that the faithful is free to select his own personal spirituality.

³² *LG*, n. 11.

³³ "Jus est christifidelibus, ut cultum Deo persolvant juxta praescripta proprii ritus a legitimis Ecclesiae Pastoribus approbati, utque propriam vitae spiritualis formam sequantur, doctrine quidem Ecclesiae consentaneam." (Can. 214)

³⁴ *LG*, 32, 41.

And since his sanctification is derived from and geared towards the sanctification of the whole Church itself of which he is a member, the Code further prescribes that he must use all his power to achieve not only his own but that of the Church's continuous holiness and growth.³⁵

6. Liberty to freely found and moderate associations for charitable and pious purposes, etc.³⁶

Historically, this right has been recognized by authors like Lombardi as early as the 19th century. But from the time of the 1917 Code it suffered some weakening and was consequently abandoned in many doctrinal sectors and has resurfaced only recently when it was once again proclaimed a fundamental right by the II Vatican Council.³⁷

According to the doctrine of Vatican II, this right includes the ability to found associations and to maintain its internal autonomy like directing its activities, confecting proper statutes, etc., as well as the right to become member in the said associations. This right traces its fundamental from the social virtue of man, as well as from the social character itself of the People of God.³⁸

7. Right to promote and sustain apostolic activity.³⁹

By virtue of their baptism and confirmation, all the faithful have been called to participate in the Church's mission with their own apostolate.⁴⁰ This apostolate is not received from the hierarchy although to guarantee its catholicity or to be able to claim the name "catholic", these activities require the consent of competent ecclesiastical authority.

³⁵ "Omnes christifideles, secundum propriam condicione, ad sanctam vitam ducendam atque ad Ecclesiae incrementum ejusque jugem sanctificationem promovendum vires suas conferre debent." (can. 210)

³⁶ "Integrum est christifidelibus, ut libera condant atque moderentur con-sociationes ad fines caritatis vel pietatis, aut ad vocationem christianam in mundo fovendam, utque conventus habeant ad easdem in communi persequendas." (can. 215)

³⁷ AA, 19.

³⁸ AA, 18.

³⁹ "Christifideles cuncti, quippe qui Ecclesiae missionam participant, jus habent ut propriis quoque inceptis, secundum suum quisque statum et condicionem, apostolicam actionem promoveant vel sustineant; nullum tamen inceptum nomen catholicum sibi vindicet, nisi consensus accesserit competentis auctoritatis ecclesiasticae" (Can. 216).

⁴⁰ LG, 33, AA, 3.

As implied in the Code, this apostolate is very varied ranking from the personal testimony which emanates connaturally from a life conformed to the gospel up to christian education which is part of parental duty. This sphere of activity which is fundamental is immediately and directly derived from the ontologico-sacramental condition of the faithful and as such demands that it be exercised according to his status and condition as faithful.

8. Right to christian education and instruction.⁴¹

This right is related to the anterior and is based on the active participation which the faithful have in the life of the Church. It is obvious that without the proper education and information, one cannot participate adequately in the life of the Church. It is obvious that without the proper education and information, one cannot participate adequately in the life of the Church or in the formation of one's proper opinion. The right to Christian education and information is limited by the demands of the welfare of the faithful, i.e., by the degree and manner in which one participates effectively in the life of the Church, always within that potential participation which has been assured and established by the divine foundational will of Christ and by the common good of the Church.

9. Freedom of inquiry and of expression in sacred sciences.⁴²

The II Vatican Council at the start recognized the liberty to free investigation and its manifestation.⁴³ From the context of its pronouncements, it can be inferred that these manifestations refers to those aspects proper of the exposition of a scientific opinion; namely, university or scholastic teaching and scientific dialogue through the usual media of scientific journals, congresses, symposia, etc.

⁴¹ "Christifideles quippe qui baptismo ad vitam doctrinae evangelicae congruetem decendam vocentur, jus habent ad educationem christianam, qua ad maturitatem humanae personae prosequendam atque simul ad mysterium salutis cognoscendam et vivendum rite instruuntur" (Can. 217).

⁴² "Qui disciplinis sacris incumbunt justa libertate fruuntur inquirendi necnon mentem suam prudenter in iis aperiendi, in quibus peritia gaudent, servato debito erga Ecclesiae magisterium obsequio." (Can. 218).

⁴³ GS, 62.

Concomitantly, however, there is need to speak of the right of those engaged scientifically in ecclesiastical studies to know the opinion of their colleagues. This right is based in the nature itself of scientific investigation which demands continuous comparison, balance and interchange of findings and opinions.⁴⁴ The exercise or the use of this right is characterized by adherence to the scientific spirit in general, i.e., respect for the demands of scientific vigor and honor requiring the hypotheses, theses, theories, and opinions should be presented only as such.

10. Right of immunity from coercion in choosing a state of life.⁴⁵

In this section we refer to those permanent conditions in life which characterize the existence of the faithful in a stable and profound manner; or what are juridically termed as the state of life of a person. Included in this condition on the one hand, is the clerical, the religious and the lay states; and on the other hand, the matrimonial state and the celibate state.

To be a cleric connotes not only the assumption of a ministry in the Church but likewise a distinct condition of life. In this letter, we mean the peculiar conditions which configure the life of a cleric as such, like the pertuity of this state, for example, and the prevalence of the ecclesiastical ministry over other possible functions, conditions or personal disposition. In other words, the clerical state includes those factors which confirm the cleric as a person whose primordial mission, foremost and perpetual within the human and ecclesial context, is to be that of a person dedicated to the sacred ministry by virtue of the vocation he has received through valid ordination. This peculiar ontologico-sacramental personal condition can be assumed only through the free acceptance of the faithful of sacred ordination without it being imposed on him socially or juridically. There exists, therefore, the freedom to accept or not this particular condition.⁴⁶

⁴⁴ GS, 44.

⁴⁵ "Christifidelibus omnes jure gaudent ut a quacumque coactione sint immunes a statu vitae eligendo". (Can. 219).

⁴⁶ The assumption of the clerical state, however, is not only an exercise of freedom since there exists, likewise, the right to ask for, and to a certain point, to receive the same. In fact, since the vocation to the clerical ministry is a hierarchical call in both the social and juridical plane, it demands or presupposes a divine vocation, a charismatical call which the faithful receives

The religious vocation carries with it analogical conditions although with distinct facets.⁴⁷ There exists the fundamental right to assume this state, since the existence of the religious life is a phenomenon of Christian existence. Besides, the religious life is an expression of Christian liberty and a form of life taught concretely and specifically by Christ.

The faithful, has likewise the right to remain in the condition of the laity.⁴⁸ The right to remain in the lay state comprehends the right to remain permanently in the condition of the laity and to develop the Christian virtuality in and of this particular condition. We speak here of a fundamental liberty because of the fact that there is no place for coercion as is true in the assumption of the condition of a cleric or of a religious.

Apart from these three conditions, it is necessary to add and consider the right to marriage and to the celibate life. When we talk of matrimony as understood in this regard, we do not refer to *jus conubii*, or the natural right to contract marriage. This is not a fundamental right of the faithful, but a natural right of man based on human nature and not on his condition as faithful.

as properly his own. This charismatic impulse is manifested in various ways. Sometimes it is integrated in the call proper of the hierarchy itself; at other times, it is manifested in the faithful as something presupposed for the hierarchical vocation. In this latter case, the initiative corresponds to the faithful who is protected by the right to ask for the ordination and to whom is given all the means in order that his particular petition would be accepted. It is only in this sense that we can speak of the right to be received in the clerical ministry. Beyond this the right does not extend. Hence, there is no right to be ordained since it pertains to the hierarchy, in the last analysis, to give the final decision concerning the organization and the regulation of the sacred ministry.

⁴⁷ The right to religious life is composed of the ff. facets: a) the right to initiate new forms and institutes of religious life; b) the right to join institutes already formed and not to be impeded from joining the religious vocation; c) necessary autonomy of government and right to establish internal rules; d) the liberty to embrace the religious life in the sense of not being forced into it; e) the right to remain permanently in the religious life. These various facets represent the totality of rights to the personal condition of the religious life and the right to join the same in order to lead its form of life. (cf. *PC*, 1, 6, 10)

⁴⁸ Juridically speaking, it is not possible to speak of the right to assume the condition of the laity for the simple reason that it is a situation connatural to the fact of being baptized. In other words, it is the condition which a person who has been baptized remains into and in which he perseveres by reason of the baptismal vocation, if afterwards he does not assume another condition or state of life, i.e., that of the clergy or the religious. Consequently, the condition of the laity is not demanded or assumed. It is simply had or possessed. And since there is no possibility of social exigency in this regard, one cannot, therefore, speak technically of a right.

The right to marriage as a fundamental right of the faithful distinct from the natural right although connected with it, is rooted on the Christian doctrine of which all faithful were followers. Since matrimony is not only a natural vocation, but a Christian vocation as well, being related positively with the mystery of the Church—the sacrament of the union of Christ with the Church — the institution is a cause and a distinct and generic way of Christian life and sanctity. Consequently, there exists the fundamental liberty to contract the same.⁴⁹

Regarding Christian celibacy, what is implied is that particular condition of life which a faithful assumes following that doctrine of Christ, characterized by a concrete supernatural finality — *propter regnum coelorum*, a prevalent ascetical orientation and a primordially apostolic order. Celibacy, understood thus, is not to be confused with the natural state of celibacy, but as it appears in the context of Christ's message as a counsel, a possibility to the Christian person sans a social or juridical obligation of assuming the same. In this manner, celibacy has configured with it the fundamental liberty to assume the same or not, the freedom of a person of not being permanently coerced to assume it, and the right to remain permanently in the said state.

It is important to add finally, that the right to celibacy pertains to all the faithful, including the laity since it is a condition not exclusively for the religious or the clergy. Religious life is simply a form of living celibacy and for the clergy it is a general norm, except for married deacons of the Occidental Church, to require celibacy as a condition of the cleric.

11. Right to one's good name and reputation.⁵⁰
12. The right to vindicate and defend one's self in the competent forum.⁵¹

⁴⁹ The liberty to enter the marriage state is a positive liberty based and inherent on the christian sense of this peculiar institution, not a residual or consequential liberty which the assumption of Christian celibacy imply.

⁵⁰ "Nemini licet bonam famam, qua quis gaudet, illegitime laedere, nec jus cujusque personae ad propriam intimitatem tuendam violare." (Can. 220)

⁵¹ "Christifidelibus competit et jura, quibus in Ecclesiae gaudent, legitime vindicent atque defendent in foro competenti ecclesiastico ad normam juris. (Can. 222, § 1).

13. Right to be judged according to the prescriptions of law applied with equity.⁵²
14. Right not to be punished by canonical penalties unless done according to the norm of law.⁵³

Other juridical situations in which the faithful is titular are the right which has reference to his good name or fame, and the corresponding right to vindicate lawful in the Church the injury he may suffer with regards to the totality of the rights he has in the Church.

With regards to the former, it should be in mind that the right of protecting one's reputation does not bestow the corresponding right to prejudice or violate the good name of another.

In defending one's proper rights, the proper forum is the ecclesiastical court which at the same time has the power to judge him, assuring of course, that the prescriptions of Canon Law is applied to him with equity. And if canonical punishment is to be applied to him, only those provided for according to the norms of law should be invoked.

The Fundamental Duties and Obligations of the Faithful

Similar to fundamental rights, the fundamental duties and obligations of the faithful are derived from the constitution of the Church immediately and directly.

Being basically juridical, they are not to be confused with those duties or obligations of a moral nature, although both represent primary obligations of the faithful. Hence, even if some primary moral duties are considered at the same time as fundamental duties, there are others which are not such because of the lack of juridical nature or orientation. In this connection, neither should those juridical relations or bonds which are wider

⁵² "Christifidelibus jus quoque est ut, si ad iudicium ab auctoritate competenti vocentur, iudicentur servatis juris praeceptis, cum aequitate. (Can. 222, § 2).

⁵³ "Christifidelibus jus est, ne poenis canonicis nisi ad normam legis plectentur." (Can. 221, § 3).

in scope, be confused with the fundamental obligations or duties, since these former include actually the latter. This is the case for example, of the relation which exists between the faithful and the hierarchy which is wider and fuller than that of the duty of obedience, which latter is only one of the aspects of the said relation.

The basis or font of fundamental duties and obligations are likewise, similar to that of the fundamental rights, although their sense of *raison d'être* is the fulfillment of the foundational will of Christ in so far as it has attributed to the faithful certain spheres of responsibility and has established in the Church as Hierarchy.

Fundamental duties are *obligatory* and this peculiar characteristic is limited by the rationability and possibility of its fulfillment. The former demands that it be in conformity with divine law and the dictates of right reason; while the latter means that in cases of physical or moral impossibility, it cannot be obligatory. Grave difficulties and inconveniences as well as other circumstances may likewise, in certain cases diminish or extinguish the obligation or affect the manner of its obligatory force.

Consequent to its characteristic *universality* and its nature as *perpetual*; active participation in the life of the Church, personal prestations, economic prestations, etc. are considered objects of fundamental duties.

Finally, fundamental duties and obligations are classified as *generic* and *concrete*. Duties are considered generic when they contain an obligation whose concretization is done through ordinary laws, customs or other normative processes. The generic duty of the faithful, for example, to participate in the public cult of the Church is concretized by positive law into the weekly attendance at Sunday Masses and the Paschal Communion. They are considered concrete when the constitution of the Church itself already limits them although they necessarily exhibit certain historical conformation.⁵⁴

⁵⁴ J. Hervada, "La Constitución de la Iglesia," *Derecho Canónico*, Vol. 1, (Pamplona: Eunsá, 1974), pp. 226-227.

The new 1983 Code enumerates nine fundamental duties of the faithful, two of them considered simultaneously as rights.⁵⁵ They are:

1. The obligation of seeing to it, that even in the way they act, they always preserve communion with the Church.⁵⁶
2. The obligation to fulfill the office to which they are bound not only for the universal Church but also for the particular Church and its continuous satisfaction.⁵⁷
3. The duty to live a holy life according to their own condition, and to promote the growth and continuous satisfaction of the Church.⁵⁸
4. The right and obligation to work for spreading the divine plan of salvation.⁵⁹
5. The obligation to accept with ready Christian obedience and conscious of their responsibilities, whatever their sacred Pastors declare or decree.⁶⁰
6. The right and duty to express their opinion to the sacred Pastor on things which concern the good of the Church.⁶¹
7. The obligations to subsidize the necessities of the Church in order to provide what is needed in divine worship, apostolic and charitable works, and the honest sustenance of ministers.⁶²

⁵⁵ We refer to the right and duty of all the faithful to work for spreading the divine plan (can. 211) and the right and duty to express their opinion to the sacred Pastor on things which concern the good of the Church (Can. 212, § 3); cf. also pp. 15 & 17.

⁵⁶ "Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia" (can. 209, § 1).

⁵⁷ "Magna cum diligentis officia adimpleant, quibus tenetur erga Ecclesiam tum universidam, tum particularem ad quam, secundum juris praescripta, pertinent," (Can. 209, § 2).

⁵⁸ cf. footnote n. 35.

⁵⁹ cf. footnote n. 19.

⁶⁰ Quae sacri Pastores, utpote Christum repraesentantes, tamquam fidei magisteri declarant aut tamquam Ecclesiae rectores statuunt, christifideles, propriae responsibilitatis conscii, christiana obedientia prosequi tenentur." (can. 212, § 1).

⁶¹ cf. footnote n. 25.

⁶² "Christifideles obligatione tenetur necessitatibus subveniendi Ecclesiae, ut eidem praesto sint quae ad cultum divinum, ad opera apostolica et caritatis atque ad honestam ministrorum sustentatione necessaria sunt." (can. 222, § 1).

8. The obligation to promote social justice and assist the poor with their own resources.⁶³
9. The obligation to respect the common good of the Church as well as the rights of others and their own duties towards others.⁶⁴

The faithful as members of Christ's Body assume the responsibility entrusted to them by Christ as their mission. As the instruments of redemption for all sent forth as the light of the world and the salt of the earth, the Church and all Her members are entrusted with the task of precisely extending the kingdom of God until it is brought to perfection by Him at the end of time.⁶⁵ This unique task means that the faithful has the obligation of being witnesses to Christ, of giving answer to those who seek the hope of eternal life

Their incorporation into the Church through baptism consecrates them as sons of God reborn in the Spirit and imbues them with the duty to confess before men the faith they have received from God through the same Church. And having been endowed by the Holy Spirit with special strength through confirmation, they are further obliged strictly to spread and defend the faith both by word and deed as true witnesses of Christ.⁶⁶

The generic and theological duties of the faithful receive its determination in these nine enumerations in which the faithful's role in the Church as partakers and recipients of the special gift of ministry ensure their contribution towards attaining in common good of the Church.

It is interesting to note that the consistent criterion availed of as the measure for the exercise of the rights and duties of the faithful singly or in association with others is the common good of the Church.⁶⁷ And because of this, ecclesiastical authority is

⁶³ "Obligatione quoque tenentur iustitiam socialem promovendi necnon, praecepti Domini memores, ex propriis redditibus pauperibus subveniendi." (Can. 222, § 2)

⁶⁴ "In iuribus suis exercendis christifideles tum singuli tum in consociationibus adunati rationem habere debent boni communis Ecclesiae necnon iurium aliorum atque suarum erga alios officiorum." (Can. 223, § 1)

⁶⁵ LG, 9.

⁶⁶ LG, 10-11

⁶⁷ cf. footnote no. 64.

imbued with the duty to moderate the exercise of this same faculty.⁶⁸

Theologically, these duties and obligations as well as the rights of the faithful springs from the nature and reality of hierarchical communion. For the faithful, by the very fact of having been baptized and through his inclusion in the ecclesiastical organization is a member of the ecclesial society; and therefore, is in communion with its Pastors — the Pope and the bishops. This hierarchical communion means among others, that they share in the mission which the Church entrusted to all members as messengers of Christ's actions.

The juridical aspect of hierarchical communion, which is the relation of service to the ecclesiastical organization with respect to the faithful engenders in these latter the duty to develop their activity in harmony with the needs of the common good and the utility of the faithful in general.

Consequently, from this sense of service, there arises in the faithful the rights and duties proper for the adequate unfoldings of the activities of the Church. This means the unravelling of those activities of the faithful demanded by the common good and concretized as fundamental rights and duties.

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⁶⁸ "Ecclesiae auctoritati competit, intuitur boni communis exercitium iurium quae christifideles sunt propria, moderari." (Can. 223, § 2).